PATENT CASE: DX01342

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Homey *et al.*	Examiner: Elizabeth Kemmerer
For: Uses of Mammalian Genes and Related Reagents	Group Art Unit: 1646
Serial No.: 09/995,534	
Filing Date: November 27, 2001	

May 7, 2003

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

This is in response to the Office Action, Paper No. 9, (Confirmation No. 2027) dated April 9, 2003, in the above-identified application, for which a response is due May 9, 2003.

Restriction requirement

Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 10, 13, 14, and 16-26 (all in part), drawn to a methods for treating wounds comprising administering lymphotactin polypeptide, classified in 424, subclass 85.1.

II. Claims 10 (in part), 13 (in part), 14 (in part), 15, and 16-26 (in part), drawn to a methods for treating wounds comprising administering lymphotactin nucleic acids, classified in 514, subclass 44.

Response

In response to the present Restriction Requirement, Applicants elect Group I (Claims 10, 13, 14 and 16-26, all in part) with traverse. These claims are directed to methods for treating wounds comprising administering a cytokine polypeptide to accelerate wound healing. As noted in Applicants' February 26, 2003 communication, Applicants had selected lymphotactin among the species of cytokines and cytokine receptors listed by the Examiner in the Office Action, Paper No. 6, dated January 15, 2003.

Although the two groups noted above identify inventions that are independent and distinct, Applicants believe that they are sufficiently related to be examined together without causing undue burden to the Examiner. Both groups are drawn to protein delivery. Group I is directed to delivery of lymphotactin polypeptide. Group II is directed to administration of a nucleic acid that expresses lymphotactin polypeptide. As Group II inherently involves the delivery of lymphotactin polypeptide, Applicants believe it would not be a serious burden for the Examiner to examine Group I together with Group II.

According to MPEP §803, there are two criteria for a proper Restriction Requirement:

(1) the invention must be independent or distinct as claimed, and
(2) there must be a serious burden on the examiner if the restriction is not required.

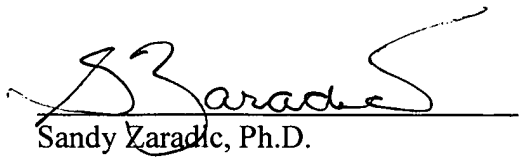
Moreover,

> if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

In conclusion, Applicants respectfully request reconsideration and withdrawal of this Restriction Requirement. Furthermore, Applicants believe that the next step in the prosecution of this Application should be in the form of a Notice of Allowance and respectfully solicit such action.

If the Examiner has any questions regarding this response, she is encouraged to contact the undersigned.

Respectfully submitted,



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Application Number	09/995,534
Filing Date	November 27, 2001
First Named Inventor	Homey et al.
Art Unit	1646
Examiner Name	Elizabeth Kemmerer
Total Number of Pages in This Submission: 5	Attorney Docket Number: DX01342

ENCLOSURES (Check all that apply)

- ☐ Fee Transmittal Form
- ☐ Fee Attached
- ☒ Amendment/Reply
- ☐ After Final
- ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Response to Missing Parts/ Incomplete Application
- ☐ Response to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s) _____
- ☐ After Allowance Communication to Group
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
- ☐ Proprietary Information
- ☐ Status Letter
- ☒ Other Enclosure(s) (please Identify below):

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Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual	SANDY ZARADIC, Reg. ~~No.~~ 45,997
Signature	S Zaradic
Date	May 7, 2003

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Attorney Docket No.: DX01342

Application No.: 09/995,534

Filing Date: November 27, 2001

Inventor: Homey et al.

PTO/SB92 (08-00)
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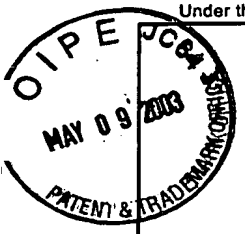

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Documents submitted:

Response Transmittal - 1 page

Response to Restriction Requirement - 3 pages

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